

## REMARKS

Reconsideration and allowance are respectfully requested.

Claims 1-13 and 24-26 have been examined. Claims 14-23 were withdrawn from consideration by the Examiner. Applicants acknowledge the Examiner's indication that claims 25-26 are allowable. Upon allowance of elected product claim 24, rejoinder of method claims 18-23 depending therefrom is requested.

It was stated on page 7 of the Office Action (Paper No. 0204) that Dr. Rhodes' "declaration has not been received prior to the preparation of this Office Action." His declaration was submitted on February 2, 2004. Consideration of its contents is now requested.

### *35 U.S.C. 103 – Nonobviousness*

Claims 1-9, 11-13 and 24 were rejected under Section 103(a) as allegedly being unpatentable over Rhodes (US 5,508,310) in view of Herrmann et al. (US 5,620,896). Moreover, claim 10 was rejected under Section 103(a) as allegedly being unpatentable over Rhodes in view of Herrmann et al. and Bellhouse et al. (US 5,620,896). Applicants traverse both rejections and request reconsideration.

The evidence of record discloses that tucaresol (an example of the Schiff base forming compounds recited in claim 1) is an adjuvant for conventional protein vaccines. At issue is whether the prior art demonstrates that one of ordinary skill in the art would have been motivated to make the combination/modification proposed by the Examiner and a reasonable expectation of success. Applicants submit that the claimed invention is not *prima facie* obvious because neither motivation nor reasonable expectation of success is shown by the evidence of record: the different mechanisms and objectives of protein vaccines and DNA vaccines do not support the use of a Schiff base forming compound as an adjuvant for DNA vaccines based on its use as an adjuvant for protein vaccines. Furthermore, none of the cited references teaches or suggests that tucaresol would "enhance both humoral and cellular immune responses initiated by the antigenic peptide" in the context of DNA vaccination as required by claims 1-24.

To aid in the Examiner's reconsideration of Applicants' arguments, Dr. Rhodes' Declaration should be considered.

Withdrawal of the Section 103 rejection is requested because the invention would not have been obvious to a person of ordinary skill in the art at the time it was made.

Having fully responded to all of the rejections in the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

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